



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

TSIOUNIS et al.

Atty. Ref.: 4915-2; Confirmation No.

Appl. No. 09/780,031

TC/A.U. 3628

Filed: February 9, 2001

Examiner: H. S. Sough

For: METHODS AND SYSTEMS FOR MAKING SECURE ELECTRONIC
PAYMENTS

* * * * *

June 20, 2006

Technology Center 1600
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON
FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c) II AND 37 CFR
§1.181) OR, ALTERNATIVELY, PETITION TO REVIVE UNINTENTIONALLY
ABANDONED APPLICATION**

Petition is hereby made to withdraw any PTO holding of abandonment of the above-identified application because, *inter alia*, the PTO PAIR system confirms that a December 23, 2004 non-final Office Action was returned to the PTO on January 14, 2005 as undelivered. In light of the circumstances outlined in the attached Martin Declaration, the petitioner requests that any PTO holding of abandonment based upon the failure to respond to the undelivered office action be withdrawn without any petition fee.

Alternatively, if this request to withdraw any holding of abandoned is denied, the petitioner requests that this petition be treated as a petition to revive an unintentionally abandoned application.

Mr. Martin on behalf of the patent application owner began an investigation as to the status of the above-identified application in the March of 2006 time frame. Martin Declaration, Par. 6

As set forth in the Martin Declaration and by the PTO record, the above-identified non-provisional patent application Serial No 09/780031 ("Methods and Systems For Making Secure Electronic Payments") was filed on February 9, 2001 and was originally assigned to InternetCash Corporation. After InternetCash ceased operations, the company's intellectual property, including the subject application, was acquired by Tolmi, LLC. Martin Declaration, par. 5.

According to the public PAIR system, a non-final rejection was mailed on December 23, 2004 during a time frame when the then active counsel, the Smyrski & Livesay firm, was in the process of ceasing operations. Martin Declaration, par. 8. Further, it may be the case that the Office Action was sent to an incorrect address, since the "1561 Laurel Street" address on the Office Action does not correspond to the "751 Laurel Street" address for Smyrski & Livesay identified as part of the correspondence street address for this firm in application 20040088473 that was published on May 6, 2004. See the attached page from published application 20040088473 from the PTO web

site. Either or both of these circumstances may have contributed to the failure of the applicants to receive the December 2004 Office Action.

The PTO public record documents that the December 23, 2004 Office Action was returned to the PTO undelivered. The PAIR system reflects no further communications from the PTO for this application.

During the relevant time frame, Paul Livesay, formerly of Smyrski & Livesay, LLP was responsible for all matters related to Tolmi. Martin Declaration, Par. 6 and 7.

The PTO's record that the December 2004 Office Action was undelivered is consistent with the recollection of Mr. Livesay, who was surprised to learn that an office action had been returned to the PTO and was unaware of any such Office Action. Martin Declaration, par. 15.

In view of the foregoing and the facts set forth in Martin Declaration, please withdraw any holding of abandonment and resend the December 23, 2004 Office Action with a response due date of three months from the date of remailing.

If the PTO decides not to withdraw a holding of abandonment, it should be recognized that due to the applicants failure to receive the December 23, 2004 Office Action, the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)). Thus, alternatively, please find that any abandonment of this application was unintentional and charge the undersigned's deposit account number accordingly.

The petitioner requests that, if a response to the undelivered office action is required, the applicants be given notice and an opportunity to promptly forward a response to the Office Action. The PTO is authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

If there are any questions, please contact the undersigned.

Respectfully submitted,

NIXON & VANDERHYE P.C.

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Serial No. 09/780,031

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For: METHODS AND SYSTEMS FOR MAKING SECURE
ELECTRONIC PAYMENTS



Atty. Ref.: 4915-2

TC/A.U.: 3628

Examiner: H. S. Sough

* * * * *

Date: February 26, 2007

Mail Stop Petition

Attn: Sr. Petitions Attorney Christina Tartera Donnell

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

RESPONSE TO DECISION ON PETITION

The Decision on Petition mailed September 26, 2006 stated that Applicant's Petition under 37 C.F.R. §1.181, or in the alternative, the Petition under 37 C.F.R. §1.137(b) to revive the above-identified application was dismissed. In particular, the Decision indicated that the Petition was dismissed because the Petition was not accompanied by a reply to the outstanding Office Action or Notice.

Applicant hereby renews its Petition to Withdraw Holding of Abandonment based on failure to receive Office Action Under 37 CFR §1.181 or alternatively, Petition to Revive Unintentionally Abandoned Application. To that effect, a copy of the June 20, 2006 Petition is enclosed, along with a formal Amendment/Response to the outstanding December 23, 2004 Office Action.

Accordingly, the Petitioner respectfully requests that this renewed Petition be granted, and respectfully solicits a next Office Action on the merits in response to the enclosed Amendment/Response.

TSIOUNIS et al.
Serial No. 09/780,031

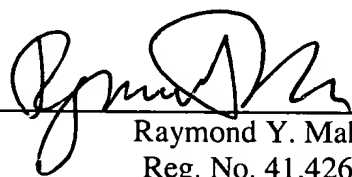
The PTO is authorized to charge any deficiency, or credit any overpayments, for any fees filed, or asserted to be filed, or which should have been filed herewith, to our account No. 14-1140 with reference to Order No. 4915-2. A fee for an extension of time is also enclosed.

If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


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